IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 15733 of 1995

Between:

M/s. Prabhakara Rice Working Company Sultanabad No.12,

Industrial Estate, Tenali represented by its Managing

Partner, B.Prabhakar Rao.

..... PETITIONER

AND

1 The Food Corporation of India, Rep. by its Senior Regional Manager,
Regional Office, 3rd Floor, HACA Bhavan, Hyderabad-500 004.
2 The District Manager, Food Corporation of India,
Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in forfeiting the EMD, as per the letter S & S 11(8)/94-PRWC dated 07/07/1995 as illegal and ultravires to the provisions of Article 14 and 19(1)(g) of the Constitution of India.

Counsel for the Petitioner : MR.V.S.R.ANJANEYALU

Counsel for the Respondents : MR.B.ANJANEYULU

The Court made the following :

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O R D E R:

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Assailing the action of the respondents in forfeiting the Earnest Money Deposit, the present writ petition is filed.

The petitioner was the highest bidder for 18 lots of Punjab Raw Rice Super Fine held at Central Warehousing Corporation, Nellore, at the rate of Rs.531/- per quintal. While accepting the bid of the petitioner, the respondents directed him to submit security deposit within a period of seven days. The petitioner admittedly did not deposit the money in time. In those circumstances, the respondent passed the impugned order forfeiting the E.M.D.

The petitioner contends that there were heavy rains in the month of May, and on the basis of newspaper reports, he was under the impression that the rice was damaged, and therefore, apprehending that he would suffer loss, did not deposit the security, and in those circumstances, the respondents passed the impugned order forfeiting the E.M.D., which is illegal and arbitrary.

A counter affidavit is filed by the respondents denying the allegations. The learned counsel for the respondents submitted that as the petitioner did not deposit the security deposit in time, the respondents forfeited the E.M.D., and he cannot place reliance on newspaper reports, as regards the condition of the stocks. The stocks were in good condition. There is no reply to the said counter affidavit by the petitioner.

The petitioner admittedly is the highest bidder. The petitioner being the highest bidder and having agreed to purchase the rice from the respondents, ought to have complied with the condition of depositing the security deposit within seven days. The petitioner having failed to deposit the security deposit within seven days,

and having failed to purchase the rice, cannot be allowed to take shelter contending that because of adverse news papers reports that the rice was spoiled in the floods, he did not deposit the security deposit. Be that as it may, forfeiting of E.M.D. of the petitioner by the respondents arises out of a contract, which is purely civil in nature, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, does not interfere in such matters.

The writ petition has no merit, and the same is accordingly dismissed. No costs.

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18-08-2004

prv/ksr

.....ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Senior Regional Manager, The Food Corporation of India,
Regional Office, 3rd Floor, HACA Bhavan, Hyderabad.
2 The District Manager, Food Corporation of India,
Nellore.

3 2CD copies